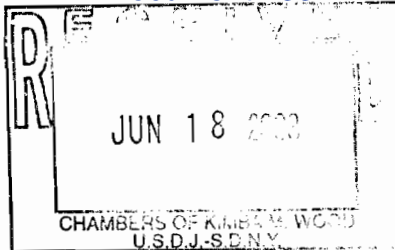


EDUARDO NIEVES,  
a/k/a JOSE SUAREZ,  
USM # 53024-054  
BROOKLYN/MDC  
80 29th Street  
Brooklyn, New York 11232



USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 6/18/08
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June 12, 2008

The Honorable KIMBA M. WOOD  
United States Chief District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, N.Y. 10007

MEMO ENDORSED

Re: UNITED STATES v. JOSE SUAREZ,  
S12 04 CR 251(KMW)

Dear Chief Judge Wood:

I Pro-Se defendant in the above stated caption respectfully submits this communication as a formal respond to the Governments letter to Your-Honor dated, June 06, 2008, in which the Government concedes to the defendants non-request or non-consent to a Fatico hearing, while also conceding that the defendant has submitted an "correction" to the calculations of the Presentence Investigation Report ("PSR") prepare by U.S. Probation Officer Mr. Kim which provides unfounded information provided by the Government.

I JOSE SUAREZ, herein again formally submit my desire not to participate in the Governments Hearing (Fatico), nor do I give authority to attorney Mr. Neufeld or the prosecution consent to conduct this hearing in my absent . . I respectfully ask that the Court note, that the sentencing court, can consider all the factors set forth in 18 U.S.C. § 3553(a), and decide to impose a non-Guidelines sentence regardless of the outcome of a factual dispute relevant to the calculation of the range, and may properly decline to resolve the dispute . . See United States v. Crosby, 397 F.3d 103, 112 (2d Cir. 2005).

Sincerely,

Eduardo Nieves,  
a/k/a JOSE SUAREZ  
Brooklyn, New York

ED/JS: AUSA-John J. O'Donnell

Mr. Russell Neufeld, Esq. (by first class mail)

*Given that Mr. Nieves contests the facts and the Sentencing Guidelines calculation in his Pre-Sentence Report, the Court is required by law to hold a Fatico hearing. The hearing will take place Wednesday, June 25, 2008, at 10:00 a.m., in Courtroom 15-B.*

*So ordered. 6-18-08*

*Kimba M. Wood*  
U.S.D.J.



U.S. Department of Justice

United States Attorney  
Southern District of New York

The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

June 6, 2008

**BY TELECOPIER**

The Honorable Kimba M. Wood  
United States Chief District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: United States v. Jose Suarez,  
S12 04 Cr. 251 (KMW)

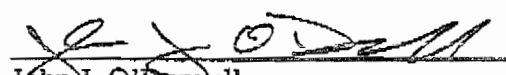
Dear Chief Judge Wood:

The Government writes in response to the defendant's pro se letter dated June 2, 2008. The defendant appears to object to a Fatico hearing, while at the same time challenging the facts and Sentencing Guidelines calculations set forth in the Presentence Investigation Report ("PSR"). However, since the defendant is challenging the facts and Sentencing Guidelines in the PSR, the Court will be required to hold a Fatico hearing. We write to advise the Court and counsel that the Government will be prepared to go forward on June 12, 2008 at 10:00 a.m. At this time, we anticipate calling one witness, for whom 3500 material has already been provided to the Court and the defense.

Respectfully submitted,

MICHAEL J. GARCIA  
United States Attorney  
Southern District of New York

By:

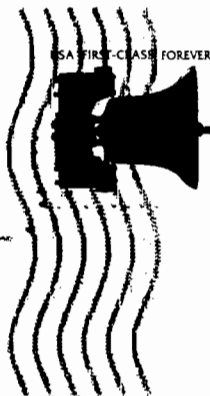
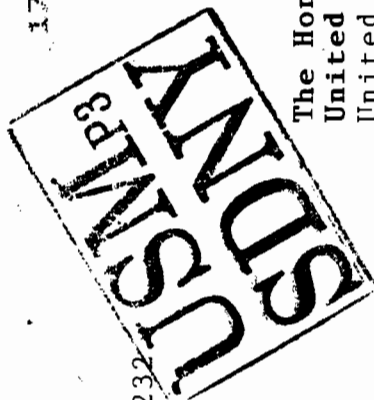
  
John J. O'Donnell  
Assistant United States Attorney  
(212) 637-2490

cc: Russell Noufeld, Esq. (by telecopier)

EDUARDO NIEVES  
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BROOKLYN NY 112

17 JUN 2008 PM 5 L



The Honorable Kimba M. Wood  
United States Chief District Judge  
United States District Courthouse  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

LEGAL MAIL

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LEGAL MAIL

